

BOARD OF REVIEW DECISION

Title of Publication:	The Peaceful Pill Handbook (New Revised International Edition)
Other Known Title:	The Peaceful Pill Handbook (Revised New Zealand Edition)
Medium:	Book
Director/Author:	Philip Nitschke, Dr Fiona Stewart
Producer/Publisher:	Exit International US Ltd
Country of Origin:	United States
Language:	English
Applicant:	Society for Promotion of Community Standards
Distributor:	Not Stated
Classification:	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 18 years.

Descriptive Note: No note.

Display Conditions: That when the publication is on public display, the classification given to the publication must be shown by way of a label issued in accordance with a direction under section 36A(2) of the Act;

and

That the label must be affixed to the book so as to cover “Banned” and preferably “Banned in Australia”;

and

That the book must be publicly displayed only in a sealed package through which the classification can be clearly seen.

Date of entry in Register: 03 October 2008

Date of direction to issue a label: 19 September 2008

OFLC No: 801873

Excisions: Not Applicable

Reasons for excisions:

Not Applicable

**Summary of reasons
for classification:**

Section 3(1) of the Films, Videos, and Publications Classification Act 1993

The Film and Literature Board (the Board) finds *The Peaceful Pill Handbook (New Revised International Edition)* passes through the gateways of crime and violence in that it describes, depicts or expresses, or otherwise deals with” those matters in such a manner that the unrestricted availability of the publication is “likely to be injurious to the public good”.

Crime

The Board considers that if unrestricted the publication would be injurious to the public good on the basis that crime per se is injurious to the public good. Specifically, *The Peaceful Pill Handbook (New Revised International Edition)* deals with the importation of class C drugs, the manufacture of drugs, cleaning up after a voluntary euthanasia, fabricating evidence, conspiring to defeat justice, and counseling, aiding or abetting a suicide, all of which are offences under the Crimes Act 1961. The Board must consider whether the manner in which the crimes are dealt with in the book is likely to be injurious to the public good.

The Board finds that the manner in which crime is dealt with in the book is to concentrate on providing factual and legal advice on the issues, rather than instruction on how to commit the crime or examples of how such crimes have been committed by others. It is therefore not likely to be injurious to the public good if it is age restricted.

It is the Board’s expert opinion, that because of the extent and nature of discussion of criminal activities in *The Peaceful Pill Handbook (New Revised International Edition)*, and the manner in which they are presented, it “likely to be injurious to the public good” unless the publication is restricted to those aged 18 years and over. At that age it is considered people will be able to deal with the criminal content in a manner commensurate with their developing maturity.

Violence

The Board considers *The Peaceful Pill Handbook (New Revised International Edition)* also passes through the gateway of violence.

The book deals with hanging, asphyxiation, and death by firearms, although the Board notes this is a relatively minor part of the publication. The issues involving violence are redacted to the extent that there is insufficient detail to show how to effect the actions, which would be injurious to the public good.

The Board finds that an age restriction of 18 years would protect children and young people from the violent content of the publication. The Board considers persons under 18 would not generally have the emotional and intellectual development to place the content of *The Peaceful Pill Handbook (New Revised International Edition)* into the appropriate context. It would therefore be injurious to the public good for the publication to be made available to children and young people under 18 years.

Section 3(2)

The Board considered section 3(2)(f) of the Act but found that although extreme violence such as asphyxiation, hanging and death by a firearm were described, the book did not promote or support, or tend to promote or support, the acts described. The actions described were clearly not supported or promoted, as they were described as non-peaceful means of ending life, which is contrary to the ethos of the book.

Section 3(3)

In considering if a classification of other than objectionable is appropriate, the Board must consider section 3(3) of the Act. The appropriate sections in respect of *The Peaceful Pill Handbook (New Revised International Edition)* are sections 3(3)(a)(i) and (iii), (c) and (d).

Section 3(3)(a)(i)

The Board has to consider the extent and degree to which, and the manner in which, the publication describes, depicts, or otherwise deals with the infliction of serious physical harm. The Board accepts that suicide comes within the definition of infliction of serious physical harm.

The extent and degree to which the publication describes the infliction of serious harm through suicide is extensive. The description of suicide although comprehensive, detailed, clinical, factual and instructional, is presented in a neutral manner. An age restriction is, however, appropriate.

Section 3(3)(a)(iii)

The Board considered whether there was physical conduct of a degrading, dehumanising, or demeaning nature, but did not find the manner in which the publication described the physical act of suicide was degrading, dehumanising or demeaning. The Board found that to the contrary, the topic of suicide was dealt with in a factual and clinical manner, although at times self-congratulatory.

Once again, the Board considered an age restriction of 18 years would address the issue of younger people not having sufficient maturity to put the topic of suicide, and the way it was dealt with in this book, into the appropriate context.

Section 3(3)(c)

The manner in which *The Peaceful Pill Handbook (New Revised International Edition)* deals with end of life options is not portrayed in a way which degrades or dehumanises or demeans any person. It is presented in part as an option which may enhance humanity.

Section 3(3)(d)

The Board has to consider if the publication promotes or encourages criminal acts. Neither “promotes” or “encourage” are defined in the Act:

promotes is defined in the Concise Oxford Dictionary (COD) as “help forward or encourage”

encourage is defined in the COD as “urge, advise, stimulate by help”.

The Board accepts that the criminal acts referred to in the publication include:

- (a) Smuggling;
- (b) Manufacture and use of Illegal Drugs;
- (c) Removing Evidence;
- (d) Aiding or Abetting Suicide; and
- (e) Inciting counselling or procuring any person to commit suicide.

Smuggling

The Board accepts that it is illegal to import a Class C drug into New Zealand. The publication does not give details on how such smuggling could occur, although on page 156 it states “at Exit International we know of no-one who has declared their Nembutal and of no-one who has had their Nembutal confiscated in Customs. We do not encourage readers of this book, however, to break the law in this regard. The provision of this information is so informed decisions can be made.”

The Board finds that smuggling is not promoted or encouraged. The publication discusses and gives examples, but does not encourage or promote smuggling.

Manufacture of Illegal Drugs

The Board finds there is insufficient information set out in the book to facilitate the illegal manufacture and use of drugs. There is a reference on page 167 to the “Peanut Project”, but there is insufficient information in the publication to replicate the project.

The book does not promote or encourage the manufacture or use of drugs, but rather provides factual information. This is insufficient to promote or encourage the activity.

Removing Evidence of Aiding or Abetting a Suicide

The Board accepts that the publication provides factual information on the law and risks involvement in aiding and abetting a suicide. A distinction is made between illegal and legal activities. There is insufficient detail given on how to clean away evidence to complete the task, and there is information on the likely penalty for such activity. The Board does not find the publication promotes or encourages the aiding or abetting of suicide to any great degree.

Inciting, Counselling, or Procuring any Person to Commit Suicide

The Board accepts the Office of Film and Literature Classification (OFLC) submission: “The sale and distribution of the book itself is unlikely to attract prosecution under s.179 of the Crimes Act 1961”. The Board also accepts the application of the *Attorney-General v Able and Ors* [1984] 1 All ER 277, where Woolf J refused to make a declaration that the sale of a booklet entitled *A Guide to Self-Deliverance* which had been implicated in a number of suicides, constituted aiding, abetting, counselling or procuring the suicide of another. Woolf J held that the bookseller would have had to intend the booklet to be used by someone contemplating suicide and intended that the person would be assisted by the book’s contents, and that he distributed it with that intention to such persons who read it.

Able was followed in *R v Tamatea* (2003) 20CRNZ 363 which found that the offence of inciting, counselling or procuring any person to commit suicide was not committed by someone who, in a heated argument, encouraged his partner to commit suicide after she said she would.

The Board takes into account that when advocating law reform, it may be necessary to describe the benefits of the law or position which is sought to be reformed.

The Board accepts that there is a clear preference expressed by the Authors of this book for the use of Nembutal as an exit drug. It is an expression of opinion supporting amendment of the law to allow access to Nembutal as the most appropriate drug for end of life options.

It is the Board’s view that *The Peaceful Pill Handbook (New Revised International Edition)* does advocate law reform, it also gives advice on how to structure end of life options so that they are within the law. It does not offer instruction in how to break the law or advice on how to control such action. The Board therefore finds that *The Peaceful Pill Handbook (New Revised International Edition)* does not promote or encourage criminal activity.

Section 3(4)

The Board is required to consider each of the subsections in section 3(4) of the Act. In determining a classification.

(a) Dominant Effect

The dominant effect of *The Peaceful Pill Handbook (New Revised International Edition)* is a lay person’s guide to end of life options. It is also to advocate law reform in this area.

(b) Impact of the Medium

The cover of the book is in muted colours. The production value is low with photographs and the publication being subdued. There are black patches in the book where, at times, significant sections have been redacted. This provides impact in that the reader is aware that information is missing.

(c) The Character of the Publication

The publication is apparently scientifically accurate, has social importance in advocating law reform, provides factual information on the law and provides options for educational purposes.

(d) Persons or Classes to Whom the Publication is Intended or likely to be Made Available

Page 11 of the book sets out who the publication is and is not intended for.

In the Board's view, the book is not likely to be used in impulse suicide because of its presentation. It is available for general sale in bookshops.

(e) The Purpose for which the Publication is Intended to be Used

The purpose of the book is for law reform and as a guide to end of life options.

(f) Other Relevant Circumstances

The Board finds there are no other relevant circumstances relating to the classification of the publication as other than objectionable.

Section 3B

The Board is required to specifically consider section 3B of the Act, and in particular section 3B(3)(a)(i) and (ii), in determining the classification of *The Peaceful Pill Handbook (New Revised International Edition)*.

Section 3B(3)(a)(i) addresses material that “describes, depicts, expresses, or otherwise deals with harm to a person's body, whether it involves infliction of pain or not (for example, self-mutilation or similarly harmful body modification) or self inflicted death”.

Section 3B(3)(a)(ii) addresses material that “describes, depicts, expresses, or otherwise deals with conduct that, if imitated, would pose a real risk of serious harm to self or others or both”.

Then Board accepts Counsel for the Authors' submission that the book clearly falls within section 3B(3)(a)(i). The Authors note that the book is not intended for the young or irrational, or people suffering from psychiatric illness or depression. That, in the Board's view however, does not prevent that sector of the community from having access to the publication. The Board holds that there is some risk that if particularly young people read *The Peaceful Pill Handbook (New Revised International Edition)*, they may be influenced by it.

The manner in which the book deals with suicide by various methods may appeal to young readers. There has been significant publicity about Dr Nitschke, and the social tapu associated with suicide may add to the book's appeal for the young.

The Board accepts the OFLC submission "the book may have the effect of making self-inflicted death appear acceptable and even desirable as a means to solve life's problems for its readers, given its approving and encouraging tone with respect to suicide. The rating of various methods may also encourage such readers to feel that their death can be achieved without undue suffering to themselves, the prospect of which may previously have acted as a deterrent. Young readers are less likely to recognize that the book is not intended for them or be able to weigh the information in the book against the knowledge that troubles can be overcome and that life can become enjoyable again with time and effort. Other young readers are likely to be disturbed by the material and could become unnecessarily fearful that they will lose loved ones who may be elderly or ill.

It is for the above reasons that the Board finds that *The Peaceful Pill Handbook (New Revised International Edition)* should be restricted to persons 18 years of age and over. The level of emotional and intellectual development and maturity of persons under that age leads to a risk that the publication may cause them to be greatly disturbed, or shocked, and significantly increase the risk of them killing or causing serious harm to themselves, others, or both. The age restriction is justified, due to society's wish to protect children and young persons from likely injury, yet provides the minimum interference with rights under the Bill of Rights Act 1990.

Bill of Rights Act 1990

The Bill of Rights Act 1990 and the 5-step process in *Moonen I* were applied in making this decision.